

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
AHMED MOHAMED,

Plaintiff,

-against-

METROPOLITAN LIFE INSURANCE
COMPANY,

Defendant.

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Docket No.:
10 CIV 7249 (PKC)

**DECLARATION OF
MICHAEL H. BERNSTEIN**

MICHAEL H. BERNSTEIN, pursuant to 28 U.S.C. §1746(2) declares under penalty of perjury the following:

1. I am a member of the firm of Sedgwick LLP, attorneys for defendant Metropolitan Life Insurance Company ("MetLife") in the above action. As such, I am fully familiar with the facts and circumstances in this matter.
2. I submit this declaration in support of MetLife's Motion on Summary Trial, for an Order dismissing plaintiff Ahmed Mohamed's ("Mohamed") ERISA §502(a)(1)(B); 29 U.S.C. §1132(a)(1)(B) complaint with prejudice on the grounds that MetLife's denial of his claim for continuing long term disability (LTD) plan benefits was not arbitrary and capricious and for such other and further relief as this Court may deem just and proper.
3. On or around September 13, 2010, plaintiff commenced this action by filing his Complaint in the United States District Court for the Southern District of New York. A true and correct copy of Mohamed's Complaint is attached hereto as "**Exhibit D.**"
4. On January 7, 2011, MetLife timely filed its Answer and Counterclaim. A true and correct copy of MetLife's Answer is attached hereto as "**Exhibit E.**"

5. On January 25, 2011, plaintiff filed his Answer to MetLife's Counterclaim. A true and correct copy of plaintiff's Answer to MetLife's Counterclaim is attached hereto as **"Exhibit F."**

6. The accompanying Motion on Summary Trial is timely filed in accordance with U.S. District Judge Castel's Order dated April 14, 2011, which directed that all submissions on the parties' Motions on Summary Trial must be filed on or before July 11, 2011. A true and correct copy of that Order is attached as **"Exhibit G."**

7. As evidenced in the Court's Scheduling Conference Order dated January 28, 2011, the parties stipulated to proceed by Motions on Summary Trial at the Court's January 28, 2011 Scheduling Conference. A true and correct copy of that Order is attached as **"Exhibit H."**

8. By stipulation dated June 8, 2011, the parties agreed that, the declarations submitted in support of the parties' respective Motions on Summary Trial and the documents contained in the Administrative Record attached to the Declaration of Matthew Hallford dated May 31, 2011 are the only evidence being submitted for the court's review in connection with the summary trial in this matter. A true and correct copy of that Stipulation is attached as **"Exhibit I."**

Dated: New York, New York
June 8, 2011

I declare under penalty of perjury that the foregoing is true and correct.

s/_____
Michael H. Bernstein
(MB-0579)

CERTIFICATE OF SERVICE

I, Matthew P. Mazzola, hereby certify and affirm that a true and correct copy of the attached **DECLARATION OF MICHAEL H. BERNSTEIN, with exhibits**, was served **via ECF and regular mail** on June 8, 2011, upon the following:

Michael Yoeli, Esq.
YOELI GOTTLIEB & ETRA LLP
260 Madison Avenue, 18th Floor
New York, New York 10016
Tel.: (212) 472-7270
Attorneys for Plaintiff

Dated: New York, New York
June 8, 2011

s/

Matthew P. Mazzola
(MM-7427)

CERTIFICATE OF SERVICE

I, Matthew P. Mazzola, hereby certify and affirm that a true and correct copy of the attached **RE-FILED DECLARATION OF MICHAEL H. BERNSTEIN, with exhibits**, was served **via ECF and regular mail** on July 12, 2011, upon the following:

Michael Yoeli, Esq.
YOELI GOTTLIEB & ETRA LLP
260 Madison Avenue, 18th Floor
New York, New York 10016
Tel.: (212) 472-7270
Attorneys for Plaintiff

Dated: New York, New York
June 12, 2011

s/

Matthew P. Mazzola
(MM-7427)